

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:14cv297-FDW

IRVIN VASQUEZ,)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
GEORGE T. SOLOMON,)	
)	
Respondent.)	
)	

THIS MATTER is before the Court upon initial review of Petitioner Irvin Vasquez's pro se Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. (Doc. No. 1.)

Petitioner is a prisoner at Marion Correctional Institution. On July 28, 2014, he pled guilty to two prison disciplinary infractions. (Pet'r's Ex. #1, Doc. No. 1-1.) He was sentenced to 30 days of segregation.

On November 5, 2014, Petitioner filed a § 2254 petition in the U.S. District Court for the Eastern District of North Carolina, which transferred the petition to this Court on November 17, 2014. The petition was not accompanied by either a \$5.00 filing fee or an Application to Proceed in District Court Without Prepayment of Fees and Costs. Consequently, on November 18, 2014, the Clerk of Court mailed a deficiency notice to Petitioner at Marion Correctional Institution alerting him that no action would be taken on his petition until the Court received either the \$5.00 filing fee or a completed Application to Proceed in District Court Without Prepayment of Fees and Costs. The Clerk attached a blank Application to the deficiency notice.

Petitioner did not respond, and on January 8, 2015, a second deficiency notice and Application were sent to him at Marion Correctional Institution, where North Carolina Department of Public Safety records showed that he was still housed. Petitioner also was warned that his case would be closed if he did not file one or the other. As of the filing of this Order, Petitioner has neither paid the \$5.00 filing fee nor filed an Application to Proceed in District Court Without Prepayment of Fees and Costs.

The Court finds that the time provided Petitioner to pay the filing fee or file a completed Application has been more than reasonable. The Court will dismiss the habeas petition without prejudice to Petitioner's ability to refile it, along with the filing fee or a completed Application to Proceed in District Court Without Prepayment of Fees and Costs.

IT IS, THEREFORE, ORDERED that Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. No. 1) is **DISMISSED without prejudice**.

Signed: April 6, 2015



Frank D. Whitney
Chief United States District Judge
